

**VOLUNTARY CLEANUP CONTRACT
13-5832-NRP**

**IN THE MATTER OF THE
PELZER UPPER MILL, PELZER LOWER MILL, DISPOSAL SITE EAST,
AND DISPOSAL SITE WEST, ANDERSON COUNTY
and
PELZER HERITAGE COMMISSION**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and the Pelzer Heritage Commission, with respect to Property located in Pelzer, South Carolina. The Property includes approximately 58.6 acres on four parcels identified by Tax Map Serial Numbers 243-01-04-002, 244-10-02-001, 243-01-01-001, and 243-01-06-003. In entering this Contract, the Department relies on the representations contained in the "Non Responsible Party Application for Voluntary Cleanup Contract" of September 26, 2013, and any amendments thereto, by the Pelzer Heritage Commission, which is incorporated into this Contract and attached as Appendix A.

AUTHORITY

This Contract is entered into pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 et. seq. (as amended); the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-10, et. seq. (as amended), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq., and the South Carolina Pollution Control Act, § 48-1-10 et. seq.

DEFINITIONS

1. Unless otherwise expressly provided in this Contract, terms used herein shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §44-56-710 et. seq. (as amended), and if not set forth therein, shall have the meaning assigned to them pursuant to the South Carolina

Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, et. seq. (as amended), the S.C. Pollution Control Act, S.C. Code Ann. § 48-1-10, et. seq. (as amended), the S.C. State Underground Petroleum Environmental Response Bank Act, S. C. Code Ann. § 44-2-10, et. seq. (as amended) or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et. seq.

- A. "PHC" means Pelzer Heritage Commission.
- B. "Beneficiaries" means the PHC's Non-Responsible Party lenders, signatories, parents, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site.
- C. "Contamination" means the presence of a contaminant, pollutant, hazardous substance, petroleum, or petroleum product.
- D. "Contract" means this Voluntary Cleanup Contract.
- E. "Department" means the South Carolina Department of Health and Environmental Control, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- F. "Existing Contamination" shall mean any Contamination present on, or under, the Site as of the execution date of this Contract.
- G. "Property" means the real property as described in the Non Responsible Party Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of the PHC or its Beneficiaries.

- H. "Segregated Sources" means drums, tanks, or similar discrete containers that potentially hold substances that may cause Contamination upon release to the environment.
- I. "Site" means all areas where a contaminant has been released, deposited, stored, disposed of, or placed or otherwise comes to be located; "site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA section 101 (28).
- J. "Waste Materials" means any Contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

FINDINGS

2. Based on the information known by or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. Owners and Operators: Four parcels totaling 58.6 acres are included in this contract. The owners and operators of the Property include the following:

Parcel 243-01-04-002, Upper Mill, 13.44 acres, Smythe Street

The Kendall Company	1953	to	1986
Soft Care Apparel Inc	1986	to	1987
Gerber Childrenswear Inc	1987	to	2003
Greenlight Enterprises LLC	2003	to	present

Parcel 244-10-02-001, Lower Mill, 16.51 acres, Murray Street

Gerber Childrenswear Inc	Unknown	to	1987
Soft Care Apparel Inc	1987	to	1988
Gerber Childrenswear Inc	1988	to	1998
Greenlight Enterprises LLC	1998	to	2003
Green Light Enterprises LLC	2003	to	present

Parcel 243-01-01-001, Disposal Site East, 16.85 acres, Frost Street

The Kendall Company	1953	to	1986
Soft Care Apparel Inc	1986	to	1987
Gerber Childrenswear Inc	1987	to	2003
Brickyard Trucking Inc	2003	to	present

Parcel 243-01-06-003, Disposal Site West, 11.80 acres, Parker Street

The Kendall Company	1953	to	1986
Soft Care Apparel Inc	1986	to	1987
Gerber Childrenswear Inc	1987	to	2003
Brickyard Trucking Inc	2003	to	present

B. Property and Surrounding Areas:

1). Upper Mill, 13.44 acres - The Upper Mill Property is bounded generally by Stevenson Street to the north and residences beyond, an active railroad line owned by CSX Transportation to the east and residences and the Saluda River beyond, residences and Fuller Street to the south, and Stevenson and Anderson Streets to the west and residences and a church beyond. The Property is located in the Town of Pelzer. The Property was developed as the Pelzer Manufacturing Company in the 1890s. Prior to this development the Property was used for agriculture. Pelzer Manufacturing Company operated a cotton textile mill producing finished cloth from raw cotton. Structures included the textile mill (Mill #4), warehouses, a laundry, and various smaller support

structures. Operations included carding, spinning, and weaving cotton into cloth. A laundry was located on the southeast portion of the Property. Coal was initially used to fire the boilers. At a later date heating oil in aboveground storage tanks was used to fire the boilers. The Property changed names and was sold several times but the facility was always a cotton mill. The mill operated until 2001. The Property was last sold in 2003. Razing of the mill and all but one warehouse began between 2003 and 2005. No structures remain on the Property with the exception of one warehouse.

2). Lower Mill, 16.51 acres - The Lower Mill Property is bounded generally by Lebbby Street and the Saluda River to the north, Beattie Street to the east and residences and the Saluda River beyond, McCaughrin Street to the south and residences beyond, and Murray Street and an active railroad line owned by CSX Transportation to the west with businesses and residences beyond. The Property is located in the Town of Pelzer. In the late 1800's a textile mill and warehouses were constructed on the Property. Structures included the textile mills (Mills #1-3), warehouses, a water tower, administrative office, and various smaller support structures. Operations included carding, spinning, and weaving cotton into cloth. Coal was initially used to fire the boilers. At a later date heating oil in above ground storage tanks was used to fire the boilers. The mill operated until the late 1990's or early 2000's. Razing of the mill began between 2003 and 2005 but did not include the warehouses, the administrative building, and water tower. The warehouses have burned in the interim. No structures remain on the Property with the exception of the administrative building, the water tower, and the brick walls of four warehouses. A wood pallet recycling company presently operates on the Property.

3). Disposal Site East, 16.85 acres - The Disposal Site East Property is bounded generally by the Saluda River to the north and east, residences to the south, and an active railroad line owned by CSX Transportation to the west.

The Property is located in Anderson County and is not located in the Town of Pelzer. The Property was used as an unpermitted solid waste landfill and received material from the Pelzer textile mills and residences. Aerial photographs indicate the Property was being used as a landfill in 1940. There are no structures on the Property and the majority of it is wooded. The landfill occupies approximately 2.5 acres of the Property and is covered with low growing vegetation. It is unknown when the landfill was last used.

4). Disposal Site West, 11.80 acres - The Disposal Site West Property is bounded generally by the Saluda River to the north, an active railroad line owned by CSX Transportation to the east, Parker Street to the south with residences beyond, and South Carolina Highway 20 to the west. The Property is located in Anderson County and is not located in the Town of Pelzer. The Property was used as an unpermitted solid waste landfill and received material from the Pelzer textile mills and residences. Aerial photographs indicate the Property was being used as a landfill in 1940. There are no structures on the Property and the majority of it is wooded. The landfill occupies approximately 4.5 acres of the Property and is covered with low growing vegetation. It is unknown when the landfill was last used.

C. Investigations / Reports:

1). Upper Mill - In 2002 Law Engineering and Environmental Services installed four temporary monitoring wells on the Upper Mill site (Department Bureau of Land and Waste Management File #57825) . Two of the monitoring wells were installed adjacent to an off-site petroleum storage system and two were installed in an areas labeled “spot cleaning.” Volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and solvents were not detected above the laboratory method detection limit in any of the groundwater samples collected from the monitoring wells.

In 2010 the Department performed an Expanded Pre-CERCLIS Screening Assessment at the Upper Mill. Three surface soil samples were analyzed for SVOCs. Analytical results indicated no detections above the RSL for residential soil.

In 2010 the Town of Pelzer received a Brownfields Assessment Grant from the Environmental Protection Agency. The grant was used to fund a Phase I and Phase II environmental site assessment (ESA), lead-based paint survey, and asbestos survey at the Upper Mill.

In 2011 CTC Public Benefit Corporation (CTC PBC) performed a Phase I environmental site assessment (ESA) on behalf of the Town of Pelzer. The Phase I ESA identified the following recognized environmental conditions (RECs) on the Property:

- a) The Property is included in the RCRA GEN database and it is known that halogenated solvents were used.
- b) The Property is included in the Department CERCLA database.
- c) The Property is included in the UST and LUST databases.
- d) Mill operations typically involve the use of hazardous substances.
- e) Floor drains were observed in the warehouse. Pesticides were historically used in areas where cotton was stored.

In 2011 EAS Professionals completed an Asbestos Inspection on the warehouse at the Property. Asbestos containing materials were found in the roof flashing and the window glazing.

In 2011 Apex Environmental Management completed a Limited Lead Based Paint Assessment on the warehouse at the Property. Several surfaces in the building tested positive for lead based paint in excess of the regulatory definition.

In 2012 CTC PBC performed a Phase II ESA on behalf of the Town of Pelzer that included soil and groundwater assessment. Multiple TAL metals and several TCL VOCs, and SVOCs were detected in soils at concentrations above their applicable regulatory limits. The concentrations of TAL metals, TCL VOCs, and TCL SVOCs exceeding regulatory limits in soils were primarily detected at the 0-foot through 3-foot below ground surface (BGS) interval.

In 2013 Cardno performed a Phase I ESA on behalf of the Pelzer Heritage Commission that identified the following recognized RECs on the Property:

- f) The Property is designated as a Federal Brownfields property.
- g) The Property is designated as a State Hazardous Waste site.
- h) The 2012 CTC PBC Phase II ESA determined that the site has been impacted by environmental contaminants.
- i) The potential for a past release of hazardous substances associated with the machine shop, boiler house, and smokestack.
- j) An off-site filling station located to the west of the Property.

2). Lower Mill – In 2002 Law Engineering and Environmental Services installed soil borings and monitoring wells on the Lower Mill site (Department Bureau of Land and Waste Management File #01943) on behalf of Gerber Childrenswear. Perchloroethylene (PCE) was detected in groundwater at concentrations above South Carolina Class GB Groundwater Standards. The suspected source of the PCE was a spot cleaning area in the mill. Additional assessment was performed and a Corrective Action Plan was approved by the Department in 2003 for the injection of a potassium permanganate solution into an existing monitoring well to address the PCE contamination.

In March 2003 Gerber Childrenswear submitted an assessment report for the removal of a regulated underground storage tank (UST) containing petroleum.

The UST was located on the south side of the former Planing Mill (UST Permit #18869). The project was closed by the Department's UST Program in April 2003.

Three injection events to address the PCE contamination were performed until 2006 when it was determined that the work was not successful in reducing concentrations of PCE. Additional assessment and corrective action activities at the Property were hindered by demolition of the mill.

In January 2008 the Department entered into Consent Agreement 08-061-W with Gerber Childrenswear, Inc. for assessment and remediation of the PCE contamination.

A Corrective Action Plan was approved by the Department in 2008 for the injection of potassium lactate to address the PCE contamination. Several injection events were performed. Assessment and remediation of the PCE contamination is on-going and the PCE contaminant plume appears to have migrated off-site to the south.

In 2010 the Town of Pelzer received a Brownfields Assessment Grant from the Environmental Protection Agency. The grant was used to fund a Phase I and Phase II environmental site assessment (ESA), lead-based paint survey, and asbestos survey at the Lower Mill.

In 2011 CTC Public Benefit Corporation (CTC PBC) performed a Phase I ESA on behalf of the Town of Pelzer that identified the following RECs on the Property:

- a) The PCE contamination in groundwater from the spot treating area.
- b) USTs shown on historical maps.
- c) The historical use of the Property as a mill.

- d) Transformers and other pieces of electrical equipment that were observed on the Property.
- e) Floor drains were observed in the warehouses. Pesticides were historically used in areas where cotton was stored.

In 2011 EAS Professionals completed an Asbestos Inspection on the administrative building, large warehouse, and small warehouse at the Property. Asbestos containing materials were found in the administrative building and the large warehouse.

In 2011 Apex Environmental Management completed a Limited Lead Based Paint Assessment on the administrative building, large warehouse, and small warehouse at the Property. Several surfaces in the building tested positive for lead based paint in excess of the regulatory definition.

In 2012 CTC PBC performed a Phase II ESA on behalf of the Town of Pelzer that included soil and groundwater assessment. PAHs are widespread in surface and subsurface soils throughout the property. Metals were found in surface soils primarily on the eastern portion of the property and adjacent to the northernmost spot cleaning area and in groundwater on the eastern portion of the property. PCE and its derivatives were found in groundwater wells located along the north-south centerline of the property.

In 2013 Cardno performed a Phase I ESA on behalf of the Pelzer Heritage Commission that identified the following recognized environmental conditions (RECs) on the Property:

- f) The Property is included in the Federal Brownfields database.
- g) The Property is included in the Federal CERCLA database.
- h) The Property is included in the Federal RCRA GEN database.
- i) The Property is included in the South Carolina UST database.

- j) Previous assessment activities have documented that mill activities had impacted soil and groundwater on the Property.

3). Disposal Site East and Disposal Site West - In 2002 Law Engineering and Environmental Services installed soil borings, six monitoring wells, and test pits in and around the disposal sites (Department Bureau of Land and Waste Management File #56804) . VOCs, SVOCs, chlorinated pesticides, or PCBs were not detected above the laboratory method detection limit in any of the soil borings or groundwater samples collected from the monitoring wells.

The Disposal Site East and Disposal Site West are located within Anderson County and are not located in the Town of Pelzer. In 2008 Anderson County received a Brownfields Assessment Grant from the Environmental Protection Agency. The grant was used to fund a Phase I ESA at the Disposal Site East and Disposal Site West that was prepared by CTC Public Benefit Corporation.

In 2012 Oneida Total Integrated Enterprises performed a Targeted Brownfields Assessment for the Environmental Protection Agency. The work included surface and subsurface soil sampling, sampling of five existing monitoring wells, and the installation and sampling of four additional monitoring wells. Arsenic was detected at levels exceeding the industrial RSL in both surface and subsurface soils. SVOC contamination primarily from polynuclear aromatic hydrocarbons (PAHs) was detected at levels exceeding the residential and/or industrial RSL in most of the soil samples. No evidence of chlorinated pesticides, PCB, or TCL VOC contamination was found in soil or groundwater samples. Debris including asphalt shingles, containers of hydraulic fluid, and burn pits were observed throughout the study area. The surface of the landfill is spongy and unstable.

In 2013 Cardno performed a Phase I ESA on behalf of the Pelzer Heritage Commission that identified the following RECs on the Property:

- a) The Property is designated as a Federal Brownfields property.
- b) Conditions suggest that the Property was used for unregulated dumping and landfilling.
- c) The 2012 Oneida Total Integrated Enterprises determined that the site has been impacted by environmental contaminants.

D. Applicant Identification: The PHC is a South Carolina non-profit corporation with its principal place of business located at 872 Cooley Bridge Road in Pelzer, South Carolina. The PHC affirms that it has the financial resources to conduct the response action pursuant to this Contract.

E. Proposed Redevelopment: The PHC will acquire the Property and intends to develop it for parks, trails, restaurants and other commercial uses.

BONA FIDE PROSPECTIVE PURCHASER STATUS

3. The PHC certifies that it is not a current owner of the Property, or parent, successor or subsidiary of a current or past owner of the Property; is not a Responsible Party for the site, or a parent, successor or subsidiary of a Responsible Party for the site; and has not had any involvement with the Property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program. The PHC also certifies that it is eligible to be a Bona Fide Prospective Purchaser for the Property.

RESPONSE ACTION

4. The PHC agrees to conduct the response actions specified in the sub-paragraphs below. An initial Work Plan shall be submitted by the PHC, or its designee, within one hundred eighty (180) days after the date of execution of this Contract by the Department, or such earlier or later date if approved by the Department's project manager. A Report of the assessment results shall be submitted by the PHC, or its designee in accordance with the schedule provided in the initial Work Plan. The

PHC acknowledges that the assessment may find distributions of Existing Contamination requiring additional assessment and/or corrective action on the Property that cannot be anticipated with this Contract. The PHC agrees to perform the additional assessment and/or corrective action consistent with the intended uses of the Property under the purview of this Contract; however, the PHC may seek an amendment of this Contract to clarify its further responsibilities. The PHC shall perform all actions required by this Contract, and any related actions of the PHC's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

A. Work Plan Logistics:

- 1). The Work Plan(s) shall set forth a schedule and methods for assessment and corrective action activities detailed herein.
- 2). A Work Plan shall be prepared for the Upper Mill and a separate Work Plan shall be prepared for the Lower Mill. A single Work Plan for Disposal Site East and Disposal Site West can be submitted.
- 3). The Work Plan(s) shall be submitted to the Department in the form of one hard copy and one electronic copy of the entire Work Plan on a compact disk (in .pdf format).
- 4). All activities undertaken pursuant to this Contract shall be consistent with S.C. statutes, regulations, and permitting requirements (e.g., stormwater management and waste disposal regulations). The PHC shall identify and obtain the applicable permits before beginning any action.
- 5). The Work Plan(s) shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.
- 6). The Work Plan(s) shall provide detailed information about the proposed sampling points, collection methods, analytical methods, quality assurance procedures, and other pertinent details of the assessment and/or corrective measures activities consistent with the following:

- a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures.
 - b). All monitoring wells and groundwater sampling points shall be constructed in accordance with 25 S.C. Code Ann. Regs. R.61-71, the South Carolina Well Standards. The Work Plan shall provide sufficient detail to support issuance of the well approvals by the Department.
 - c). The laboratory analyses for samples taken pursuant to the Work Plan are specified in the media-specific sub-paragraphs below, but may include any of the following:
 - i. the full EPA Target Analyte List (TAL);
 - i). EPA Target Analyte List excluding cyanide (TAL-Metals);
 - ii. the full EPA Target Compound List (TCL);
 - i). EPA Target Compound List Volatile Organic Compounds (TCL-VOCs);
 - ii). EPA Target Compound List Semi-Volatile Organic Compounds (TCL-SVOCs);
 - iii). EPA Target Compound List Pesticides (TCL-Pesticides);
 - iv). EPA Target Compound List Polychlorinated Biphenyls (TCL-PCBs).
 - d). All analytical methods shall use appropriate detection levels to allow comparison to the media-specific screening criteria listed in the “EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites” in effect at the time of sampling. The applicable Protection of Groundwater SSL for soil samples shall be the “MCL-Based SSL”, if listed. If the applicable screening criteria are lower than achievable detection levels, the analytical method shall use the lowest achievable detection levels.
- 7). The Work Plan(s) shall include the names, addresses, and telephone

numbers of the PHC's consulting firm(s), analytical laboratories, and the PHC's contact person for matters relating to this Contract and the Work Plan(s).

- a). The analytical laboratory shall possess applicable Certification defined in 25A S.C. Code Regs. R.61-81, for the test methods specified in the Work Plan.
 - b). The PHC shall notify the Department in writing of any changes concerning the consulting firm(s), contact person(s), or laboratory identified in the Work Plan(s).
- 8). The Department will notify the PHC in writing of approvals or deficiencies in the Work Plan(s).
 - 9). The PHC, or its designee, shall respond in writing within thirty (30) days of receipt of any comments on the Work Plan(s) by the Department.
 - 10). The PHC shall begin implementation of the Work Plan(s) as soon as reasonably possible after receipt of written approval of the Work Plan(s) by the Department.
 - 11). The PHC shall inform the Department at least five (5) working days in advance of all field activities conducted pursuant to the Work Plan(s), and shall allow the Department, or its authorized representatives, to take duplicates of any samples if desired.
 - 12). The PHC shall preserve items on the Property that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. The PHC shall notify the Department of the location of any such items, and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction of said items.

B. Report Logistics

- 1). Report(s) shall be prepared in accordance with accepted industry standards and shall be certified by signature and seal of a Professional Engineer or Professional Geologist duly licensed in South Carolina.
- 2). The Report(s) of assessment and/or corrective measures activities shall include a discussion of investigation methods and any deviations from the Department approved Work Plan(s). The Report shall also include tables and figures to summarize all data, a surveyed map documenting sampling locations, documentation of field observations including well core logs, sample descriptions, field screening results, and all laboratory analytical data.
- 3). All Report(s) shall be submitted to the Department in the form of one hardcopy and one electronic copy of the entire Report on a compact disk (in .pdf format).

C. Assess Waste Materials and Segregated Sources:

- 1). The PHC shall characterize all Waste Materials and Segregated Sources at each parcel. Debris piles shall be characterized as necessary for disposal. Assessment shall include an evaluation of contaminant concentrations and an estimation of the quantity or extent of each type of Waste Material or Segregated Source, as applicable.
- 2). The PHC shall also characterize for disposal any other Waste Material and Segregated Sources that may be discovered on the Property at any time during assessment, corrective action, or development activities in accordance with applicable regulations..
- 3). Upon discovery of any Segregated Source that has not yet released all contents to the environment, the PHC shall expeditiously stabilize or remove the Segregated Source from the Property
- 4). The PHC shall immediately notify the Department if a release of

Contamination occurs as a result of its assessment, stabilization or removal actions. The PHC shall assess the impact of the release and take necessary action in accordance with a Department approved plan.

D. Conduct a well survey:

- 1). The PHC shall map all public and private wells used for drinking water supply within a one-half mile radius of the each parcel, and wells used for irrigation or other non-drinking water use within a one-quarter mile radius.
- 2). The PHC shall report sufficient information to the Department to allow the Department to secure permission to sample the wells. At a minimum, this information shall include the: 1) Location of the well; 2) Identity and mailing address of the well owner; and, 3) Telephone number, if publicly available or otherwise known to the PHC, of the well owner or occupant of the residence served by the well.

E. Assess soil quality across the Property:

- 1). The PHC shall collect and analyze soil samples on the Property. The PHC shall collect one surface soil sample (0-1 foot below ground surface) and one subsurface soil sample (2 foot minimum depth) from each of the following locations at each parcel. The Disposal Site East and Disposal Site West shall be considered as one parcel:
 - a). A presumed background location. The soil samples shall be analyzed for TAL Metals.
 - b). Any locations of soil staining or other indications of Contamination on the Property. Samples shall be analyzed for the full EPA-TAL and EPA-TCL.
- 2). Soil quality results shall be compared to the Residential and Industrial Screening Levels and to the applicable Protection of Groundwater SSL.

F. Assess groundwater quality:

- 1). The PHC shall assess groundwater quality across the Property if determined

to be necessary by the Department. Assessment shall include samples from permanent or temporary monitoring wells to be installed as singular or well pairs at each parcel. The well pairs shall consist of a well screened to bracket the water table, and a well screened at the bedrock-saprolite interface or upper confining layer. In the event that groundwater is not encountered above the bedrock/confining layer, the shallower wells may be omitted after consultation with the Department. Specific locations shall be as follows:

- a). A location presumed to be hydraulically downgradient of a potential off-site source;
 - b). Any locations of soil staining or other indications of Contamination on the Property.
- 2). Samples from all groundwater monitoring wells shall be analyzed for the full TAL/TCL parameters.
 - 3). Groundwater quality results shall be compared to the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58, or, if not specified in R.61-58, to the Regional Screening Tables values for "Tapwater."

G. Evaluate and control potential impacts to indoor air:

- 1). The PHC shall evaluate potential impacts to indoor air if the Department determines significant concentrations of volatile organic compounds are present in the subsurface. The Department will use a modified Johnson and Ettinger Model to determine "Significant concentrations" based on representative soil and/or groundwater quality results reflective of the Property. The model will be constrained towards predicting residential or commercial exposures consistent with the existing construction or building construction proposed to be used on the Property.
- 2). The PHC's evaluation shall, unless otherwise agreed to by the Department, consist of collection and analysis of soil gas samples from the proposed

footprint of buildings to be constructed on the Property over areas potentially subject to Vapor Intrusion. Soil gas samples shall be analyzed for all site related volatile compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a 10^{-6} risk for shallow gas samples (using an depth-appropriate attenuation factor). The applicable screening concentrations shall be based upon the EPA OSWER "Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils" or supplemental EPA guidance.

- 3). This evaluation shall, unless otherwise agreed to by the Department, consist of collection and analysis of indoor air samples from within the building during two separate sampling events approximately six months apart. One sample shall be collected per every 1000 square feet of building footprint potentially subject to Vapor Intrusion. One sampling event shall be in the winter. Each sampling event shall include collection of indoor air samples for laboratory analysis of all site-related volatile organic constituents. The samples collected for laboratory analysis may use either active or passive collection methods provided the same protocol is used for both sampling events. The method shall be capable of detecting gas concentrations at screening levels indicative of a 10^{-6} risk. The applicable screening concentrations shall be based upon the EPA OSWER "Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils" or supplemental EPA guidance.
- 4). The Department may allow the PHC to implement vapor intrusion control measures in lieu of the above evaluation, or use alternative evaluation methods that, in the Department's sole discretion, offer a similar degree of data usability.
- 5). The PHC shall submit an addendum to the Work Plan detailing the steps for further study and/or remedial or other control management measures to be implemented if the predicted or measured indoor air concentration exceeds a 10^{-6} risk calculated for occupational exposure (40 hrs/wk, 50 wk/yr, 25 yrs) or

residential exposure. The Department shall give reasonable consideration of data or other demonstration that shows unacceptable exposures inside the building do not result from the subsurface conditions.

H. Institute reasonable Contamination control measures:

- 1). The PHC shall stabilize or remove from the Property any Segregated Sources of Contamination that have not yet released all contents to the environment.
 - a). The contents of the Segregated Sources shall be properly reused or disposed of in accordance with regulations.
 - b). The PHC shall document the characterization results and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.
- 2). The PHC shall take reasonable measures to limit or prevent human exposure to Existing Contamination on the Property.
 - a). Corrective measures shall be required for Waste Materials and Contamination present in any media on the Property with concentrations in excess of appropriate human-health risk-based exposure standards with plausibly complete routes of exposure. Known media or Waste Materials that require Corrective Measures include, but may not be limited to, the following:
 - i. Surface soils at the Upper Mill Property that exceed Regional Screening Levels for Industrial Soil EPA TAL Metals & Cyanide, EPA TCL SVOLs, and EPA TCL VOLs;
 - ii. Debris piles from the Upper Mill Property;
 - iii. Surface soils at the Lower Mill Property that exceed Regional Screening Levels for Industrial Soil EPA TAL Metals & Cyanide, EPA TCL SVOLs, and EPA TCL VOLs;
 - iv. Debris piles from the Lower Mill Property;

- v. White goods and household garbage on Disposal Site East and Disposal Site West;
 - vi. Disposal Site East and Disposal Site West – Both parcels shall be secured with one locked gate.
- b. The corrective measures shall be proposed in a Corrective Measures Plan to be approved by the Department prior to implementation, and shall be consistent with the intended future use of the Property. Corrective measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to the Contamination.
 - c. A Corrective Measures Plan shall be prepared for the Upper Mill and a separate Corrective Measures Plan shall be prepared for the Lower Mill. A single Corrective Measures Plan for Disposal Site East and Disposal Site West can be submitted.
 - d. The Corrective Measures Plan for Disposal Site East and Disposal Site West shall include a final cover system for the landfill portion of each parcel that shall be designed and constructed to:
 - (1) Have a permeability less than or equal to the permeability of the bottom liner or natural subsoils present, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less;
 - (2) Minimize infiltration through the closed landfill by the use of an infiltration layer that contains a minimum eighteen (18) inches of earthen material;
 - (3) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of one (1) foot of earthen material that is capable of sustaining native plant growth.
 - e. The PHC may request Department approval to conduct a site-specific risk assessment to determine levels of Contamination that are acceptable for the intended use of the Property. The risk assessment shall be conducted in accordance with EPA Risk Assessment Guidance for Superfund. Prior to conducting the risk assessment, the PHC shall submit for Department

approval, an overview of risk assessment assumptions including identification of contaminant exposure routes, the type and duration of possible exposures, the magnitude of exposure, and any data gaps that need to be addressed to complete the risk assessment.

- f. Upon completion of any corrective measures, the PHC shall provide a Corrective Measures Report to document satisfactory completion of the corrective measures for Department review and approval prior to obtaining a Certificate of Completion.
 - g. In the event that corrective measures include engineering controls that must be maintained or monitored during future use of the Property, a Site Management Plan will be required by the Department. If required, the Site Management Plan shall identify procedures for management of contaminated media that may be encountered as a result of any disturbance of the engineering controls, and for repair or replacement of the engineering controls.
- I. Monitor and/or abandon the monitoring wells:
- 1). The PHC shall implement a groundwater-monitoring program if required by the Department. Continued monitoring requirements will be based on the Department's determination of potential adverse effects on nearby receptors, i.e., individuals that are presently or potentially exposed to Contamination.
 - 2). The Department will determine the frequency and duration of the monitoring program on a case-specific basis.
 - 3). The PHC shall abandon the monitoring well(s) when the Department determines there are no further needs for wells. The wells shall be abandoned in accordance with R.61-71 of the South Carolina Well Standards.

HEALTH AND SAFETY PLAN

5. The PHC shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan shall be submitted to the Department in the form of one hard copy and one electronic copy of the Health and Safety Plan on compact disk (in .pdf format). The PHC agrees that the Health and Safety plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by the PHC.

PUBLIC PARTICIPATION

6. The PHC and the Department will encourage public participation to implement this Contract as follows:
 - A. The Department will provide notice, seek public comment, and initiate a thirty-day claim contribution notification period in accordance with established procedures consistent with S.C. Code Ann. §44-56-750 upon signature of this Contract by the PHC.
 - B. The PHC shall erect a sign at major entrances onto the Upper Mill, Lower Mill, and Disposal Site East/Disposal Site West parcels or other locations routinely accessible by the public. The sign(s) shall be erected no later than three days after the Department's public announcement about the Contract in a newspaper of general circulation in the community.
 - 1). The sign will state "Voluntary Cleanup Project by Pelzer Heritage Commission under Voluntary Cleanup Contract 13-5832-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of the PHC. Contact information for the Department shall

state "TOLL-FREE TELEPHONE: 1-866-576-3432".

- 2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the Property without intruding onto the Property.
- 3). The PHC shall submit photographs of the sign(s) and a Property drawing showing the location(s) of the signs. The photographs shall be submitted to the Department within 10 days of erecting the sign.
- 4). The PHC agrees to revise the sign if the Department determines the sign is inaccurate, not legible, or otherwise ineffectively placed.
- 5). The PHC shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the Contract period until a Certificate of Completion is issued on the Property.
- 6). The sign(s) may be removed to accommodate building or grading activities; however, the PHC shall restore the sign within two (2) days to its original location, or other publicly accessible location upon notice to the Department.

PROGRESS UPDATES

7. The PHC shall submit periodic written updates to the Department's project manager until such time as all activities related to the Property are complete pursuant to this Contract. The first update shall be due within 60 days of Work Plan approval and semi-annually thereafter.
 - A. The updates may be in summary letter format, but should include information about:
 - 1). The actions taken under this Contract during the previous reporting period;
 - 2). Actions scheduled to be taken in the next reporting period;
 - 3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and,
 - 4). A description of any environmental problems experienced during the previous

reporting period and the actions taken to resolve them.

- B. The Department's project manager may allow an extended schedule between updates based on case specific conditions.

SCHEDULE

8. The PHC shall perform all activities and response actions pursuant to this Contract in an expeditious manner. In the event that circumstances cause a delay in implementation of the response actions, the Department may require implementation of interim measures to stabilize Contamination or prevent unacceptable exposures. The PHC shall implement the interim measures in accordance with a Department-approved plan.

DECLARATION OF COVENANTS AND RESTRICTIONS

9. The PHC or its Beneficiaries shall enter, and record, a Declaration of Covenants and Restrictions (Declaration) for the Upper Mill if Contamination exceeds levels acceptable for unrestricted use after completing the response actions pursuant to this Contract. Contaminant levels acceptable for unrestricted use shall be the Screening Levels for Resident Soil as specified in the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites for soil, and the primary maximum contaminant level (MCL) standards in the South Carolina State Primary Drinking Water Regulations, R.61-58 for groundwater. Additional restrictions may be required based on the response actions completed under this Contract.

The PHC or its Beneficiaries shall enter, and record, a Declaration for the Lower Mill if Contamination exceeds levels acceptable for unrestricted use after completing the response actions pursuant to this Contract. Contamination levels acceptable for unrestricted use shall be the Screening Levels for Resident Soil as specified in the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites for soil, and the primary MCL standards in the South Carolina State Primary Drinking

Water Regulations, R.61-58 for groundwater. Additional restrictions may be required based on the response actions completed under this Contract.

The PHC or its Beneficiaries shall enter and record a Declaration for the Disposal Site East and Disposal Site West to prohibit the use of groundwater and maintain the final cover system pursuant to paragraph 4 herein. Additional restrictions may be required based on the response actions completed under this Contract.

The recorded Declarations shall be incorporated into this Contract as an Appendix and shall be implemented as follows:

- A. The Department shall prepare and sign the Declarations prior to providing them to the PHC. An authorized representative of the PHC or its Beneficiaries shall sign the Declarations within ten (10) days of receipt. All signatures shall be witnessed, and signed and sealed by a notary public.
- B. The PHC or its Beneficiaries shall record the executed Declarations with the Registrar of Deeds or Mesne Conveyance for the county where the Property is located.
- C. The PHC or its Beneficiaries shall provide a copy of the recorded Declarations to the Department within sixty (60) days of the Department's execution. The copy shall show the date and Book and Page number where the Declarations have been recorded.
- D. In the event that Contamination exceeds levels acceptable for unrestricted use (Regional Screening Levels for residential use) on a portion of the Property, the PHC or its Beneficiaries may create a new parcel of that portion of the property that will be subject to the Declarations.

- E. The Declarations shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of property subdivided from the Property and subject to the Declarations.
- F. The Declarations shall reserve a right of entry and inspection for the PHC or its Beneficiaries that may be transferred to another single individual or entity for purposes of compliance monitoring.
 - 1). The PHC or its Beneficiaries shall ensure that the restrictions established by the Declarations remain on any subdivided property.
 - 2). The PHC or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Declarations regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.
- G. The Declarations shall provide that the Department has an irrevocable right of access to the Property after the PHC acquires the Property, and such right of access shall remain until remediation is accomplished for unrestricted use and monitoring is no longer required. Such access shall extend to the Department's authorized representatives and all persons performing response actions on the Property under the Department's oversight.
- H. The PHC or its Beneficiaries, or the individual or entity responsible for compliance monitoring, shall annually document the Property's land use and compliance with the Declarations to the Department. The report shall be submitted by May 31st in a manner and form prescribed by the Department.
- I. The Department may amend the Declarations in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Property change; however, said

amendment shall not be applied retroactively unless expressly provided for in the legislation. An amendment may strengthen, relax, or remove restrictions based on the Regional Screening Tables in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the Regional Screening Tables. Amendments to the Declarations shall be duly executed and recorded using procedures similar to those detailed above.

NOTIFICATION

10. All notices required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person, whose name, address, and telephone number must be updated to the other party, throughout the term of the Contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of notice shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail by which notice shall be deemed to occur seven (7) days after the postmark date; 2) Certified or Registered Mail by which notice shall be deemed to occur on the date received as shown on the receipt; 3) Commercial delivery service company by which notice shall be deemed to occur on the date received as shown on the receipt; or, 4) hand delivery to the other party.

A. All correspondence, notices, work plans, and reports shall be submitted to:

Mark Berenbrok
Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201

- B. All correspondence and notices to the PHC shall be submitted to the PHC's designated contact person who as of the effective date of this Contract shall be:

Larry Coker
Pelzer Heritage Commission
872 Cooley Bridge Road
Pelzer, South Carolina 29669

FINANCIAL REIMBURSEMENT

11. The PHC or its Beneficiaries shall reimburse the Department for its public participation costs and for oversight costs of activities specific to this Contract as provided by S.C.Code Ann. §44-56-750 (D). The oversight costs shall include the direct and indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments thereto, and may include costs related to this Contract and incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to the PHC on a quarterly basis. In recognition of the PHC's non-profit status, the Department waives reimbursement of oversight costs, exclusive of the cost incurred for public participation. The Department reserves the right to re-instate oversight billing upon thirty-day notice to the PHC; however, said billing shall not include any costs incurred by the Department prior to receipt of the notice. All costs are payable within thirty (30) days of the Department's invoice submitted to:

Larry Coker
Pelzer Heritage Commission
872 Cooley Bridge Road
Pelzer, South Carolina 29669

- A. Failure to submit timely payment for costs upon receipt of the Department's invoice is grounds for termination of the Contract pursuant to paragraph 16 herein.
- B. Payment for costs incurred by the Department pursuant to this Contract shall become immediately due upon termination of the Contract by any party pursuant to paragraph 16 herein.

ACCESS TO THE PROPERTY

- 12. The PHC agrees the Department has an irrevocable right of access to the Property for environmental response matters after the PHC acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required, and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight.

CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

- 13. A Certificate of Completion shall be issued to the PHC or its Beneficiaries for the Property under this Contract as follows:
 - A. The PHC or its Beneficiaries shall request a Certificate of Completion pursuant to S.C. Code Ann. § 44-56-750(C)(1) after the response actions are completed and any required Declarations are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property; and 2) the cost of all environmental work conducted pursuant to this Contract.
 - B. Pursuant to S.C. Code Ann. § 44-56-750(C)(1) the Department shall issue the Certificate of Completion with its covenant not to sue upon determining that the

PHC or its Beneficiaries has successfully and completely complied with the Contract and the voluntary cleanup approved under S.C. Code Ann. § 44-56-710 through 760 (as amended).

C. The Department may issue a Provisional Certificate of Completion if the substantive response actions required under this Contract are complete and a required Declaration has been recorded but all actions under this Contract have not been completed due to Property-specific circumstances.

- 1). A Provisional Certificate of Completion will include specific performance standards that the PHC or its Beneficiaries shall continue to meet.
- 2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if the PHC or its Beneficiaries do not satisfactorily complete the requirements of the Contract as stipulated in the Provisional Certificate of Completion.

ECONOMIC BENEFITS REPORTING

14. The PHC or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two (2) years after the execution date of this Contract, and annually thereafter until two (2) years after redevelopment of the Property is complete. The PHC shall summarize the new operations at the Property, the number of jobs created, the amount of property taxes paid, and the total amount invested in the Property for property acquisition and capital improvements.

CONTRACT OBLIGATIONS AND PROTECTIONS INURE

15. The terms, conditions, obligations and protections of this Contract apply to and inure to the benefit of the Department, the PHC, and its Beneficiaries as set forth below. The following stipulations apply to ensure the transition of all obligations and

protections to successive Beneficiaries for any portion of the Property:

- A. The PHC or its Beneficiaries shall provide a copy of this Contract and applicable Appendices to any subsequent Beneficiary. Transmittal of the Contract copy may be via any commonly accepted mechanism.
- B. The PHC and its Beneficiaries shall not allow residential occupancy on any portion of the Property prior to obtaining the Certificate of Completion or a Provisional Certificate of Completion specific to that portion of the Property allowing residential occupancy.
- C. If the Certificate of Completion has not been issued, the PHC or its Beneficiaries shall request approval from the Department prior to transferring the obligations and protections of this Contract to a new person or entity. The Department shall not unreasonably withhold its approval upon receipt of a Non-Responsible Party Application for Voluntary Cleanup Contract documenting that the new person or entity:
 - 1). Is not a Responsible Party for the Site;
 - 2). Has sufficient resources to complete the activities of this Contract;
 - 3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract,
 - 4). Will assume the protections and all obligations of this Contract and,
 - 5). Will, in the Department's sole discretion, provide a measurable benefit to the State and the community as a result of this transfer.
- D. If the Certificate of Completion has been issued and the portion of the Property is subject to a Declaration or other ongoing obligation pursuant to this Contract, the PHC or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty days after the effective date of the ownership change or other possessory transfer of the Property.

- 1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the Contract and the Declaration, and that it will assume the ongoing obligations and protections of this Contract.
- 2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential or commercial use provided the Declaration is noted on the master deed for the planned development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.

E. If a Certificate of Completion has been issued and the Property is not subject to a Declaration or other continuing obligation pursuant to this Contract, no notification is required.

CONTRACT TERMINATION

16. The PHC, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty days advance written notice to the other party. Termination shall be subject to the following:

- A. The Department may not terminate this Contract without cause and before termination, shall provide the PHC or its Beneficiaries an opportunity to correct the cause(s) for termination, which may include, but is not limited to, the following:
- 1). Failure to complete the terms and conditions of this Contract;
 - 2). Change in the PHC's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;
 - 3). Failure to submit timely payment for costs upon receipt of the Department's invoice;

- 4). Failure of the PHC or its Beneficiaries to implement appropriate response actions for additional Contamination or releases caused by the PHC or its Beneficiaries;
 - 5). Knowingly providing the Department with false or incomplete information or knowing failure to disclose material information;
 - 6). Failure by the PHC or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this Contract; or,
 - 7). Failure by the PHC or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of the PHC's or its Beneficiaries' marketing efforts, regional economic conditions, and other pertinent information on the Property.
- B. Should the PHC or its Beneficiaries elect to terminate, that party shall certify to the Department's satisfaction that any environmental or physical hazards caused or contributed by the PHC or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment.
- C. Termination of this Contract by any party does not waive the Department's authority to require response action under any applicable state or federal law.
- D. Termination of this Contract by any party does not end the obligations of the PHC or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract. Payment for such costs shall become immediately due.
- E. Upon termination, the protections provided under this Contract shall be null and void as to any party who participated in actions giving rise to termination of the Contract. Revocation of protections shall also apply to that party's lenders,

parents, subsidiaries, , and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party who participated in actions giving rise to termination of the contract. The protections will continue for any party who has received protections through a Certificate of Completion for this Contract, and who did not participate in the actions giving rise to the termination.

ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. The PHC and its Beneficiaries are entitled to the protections and benefits in regard to Existing Contamination provided by South Carolina statutes as follows:

A. Effective on the date this Contract is first executed by the Department:

- 1). Protection from contribution claims under CERCLA Section 113.42 U.S.C. § 9613 and § 44-56-200, et seq.
- 2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
- 3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to S.C Code § 12-6-3550.

B. Effective on the date the Certificate of Completion is issued by the Department.

- 1). The Department's covenant not to sue the PHC and its Beneficiaries for Existing Contamination but not for any Contamination, releases and consequences caused or contributed by the PHC or its Beneficiaries.
- 2). Specific tax credits or additional benefits expressly contingent in South Carolina statutes on issuance of the Certificate of Completion.

C. These Protections and Benefits do not apply to any Contamination, releases, and consequences caused or contributed by the PHC or its Beneficiaries. The Department retains all rights under State and Federal laws to compel the PHC and its Beneficiaries to perform or pay for response activity for any

Contamination, releases and consequences caused or contributed by the PHC or its Beneficiaries.

RESERVATION OF RIGHTS BY THE DEPARTMENT

18. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation other than the PHC and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than the PHC and its Beneficiaries, to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

RESERVATION OF RIGHTS BY THE PHC

19. The PHC retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. The PHC and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for Contamination, releases, and consequences they cause or contribute. However, the PHC and its Beneficiaries agree to undertake the requirements of this Contract.

BURDEN OF PROOF

20. The PHC and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered Contamination is not caused or contributed by the PHC or its Beneficiaries. The PHC and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to such newly discovered Contamination. For purposes of this clause, newly discovered Contamination means finding types of Contamination not previously identified at the Property or substantially higher concentrations of Existing

Contamination.

LIMITATION OF CLAIMS BY THE PHC AND ITS BENEFICIARIES

21. In consideration of the protections from the Department under this Contract, the PHC and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Property pursuant to this Contract. This limitation shall not extend to any claims or causes of action resulting from the Department's intentional or negligent acts or omissions, or the Department's willful breach of this Contract.

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SIGNATORS

22. The signatories below hereby represent that they are authorized to and do enter into this Contract on behalf of their respective parties.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL**

BY:

DATE:

Daphne G. Neel, Chief
Bureau of Land and Waste
Management

DATE:

Reviewed by Office of General Counsel

PELZER HERITAGE COMMISSION

BY:

DATE:

Printed Name and Title

APPENDIX A

Pelzer Heritage Commission

Application for Non-Responsible Party Voluntary Cleanup Contract

September 26, 2013